



STATE OF CONNECTICUT

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Honorable Members of the Judiciary Committee

From: Paul J. Knierim
Probate Court Administrator

Re: HB 6694 An Act Concerning the Inheritance Rights of a Child who
is Born after the Death of a Married Parent

Date: April 15, 2013

Thank you for the opportunity to testify in support of the concept that is addressed in HB 6694. The bill would have the favorable effect of providing clarity in this important area of the law, where existing statutes have not kept pace with advances in medical technology.

HB 6694 addresses the inheritance rights of a child who is conceived by means of a medical procedure such as artificial insemination or in vitro fertilization when the donor of the sperm or eggs is deceased. Under the bill, the child would have the same status as a child born during the decedent's life for inheritance purposes, but only if the following three conditions are met. First, the decedent must have authorized, in writing, the use of his or her preserved genetic material after death. Second, only a surviving spouse may use the decedent's genetic material to conceive a child. Third, the medical procedure must be performed within one year of the decedent's date of death.

Existing Connecticut law addresses some aspects of the parentage of a child conceived through artificial means, but is silent on the use of a deceased person's preserved genetic material to conceive a child. Sections 45a-771

through 45a-779 authorize physicians to perform artificial insemination and in vitro fertilization for married couples using sperm or eggs donated by a third party. Under those statutes, the child is deemed to be the child of the couple for whom the procedure is performed and the third party donor is deemed to have no parental rights. Sections 45a-777 and 45a-778 make it clear that the child has the same inheritance rights as a child conceived by natural means. The statute does not, however, provide any indication about the legal status of a child conceived using the preserved genetic material of deceased spouse.

The decision whether to grant inheritance rights to posthumously conceived children is a public policy matter strictly within the province of the General Assembly, and not the Probate Courts. It is similarly a policy issue for the legislature to determine, if posthumous conception is to be recognized in Connecticut law, how soon after death the conception must occur for the child to be treated as a decedent's heir. That said, it is our view that it would be beneficial to have a definitive answer to those questions under Connecticut law. The answer is important not only for the determination of whether a posthumously conceived child is entitled to property from a decedent's estate, but may also govern a child's eligibility for social security and other benefits to which children of a decedent may be entitled.

Recognition of inheritance rights for posthumously conceived children will inevitably lead to a variety of issues in the estate settlement process, many of which the bill seeks to address. We would appreciate the opportunity to assist in developing more specific procedures to ensure that estates will continue to be administered in a prompt manner while protecting the rights of children conceived after death.